

This record is a partial extract of the original cable. The full text of the original cable is not available.

UNCLAS ANKARA 002522

SIPDIS

DEPT FOR EB/TPP/MTA/IPE - SWILSON/JURBAN AND EUR/SE DEPT
PASS USTR FOR JCHOE-GROVES
DEPT PASS LIBRARY OF CONGRESS FOR STEPP
DEPT PASS USPTO FOR JURBAN AND EWU
USDOC FOR ITA/MAC/DDEFALCO AND JBOGER

SENSITIVE

E.O. 12958: N/A

TAGS: [ETRD](#) [KIPR](#) [TU](#) [USTR](#)

SUBJECT: Special 301: MFA Disappointed With PWL
Designation; Response to PhRMA GSP Petition Demarche

REF: (A) State 79058 (B) State 66948

(C) Ankara 2170 and previous

1. (U) Per ref A, Econoff alerted MFA, the Foreign Trade Undersecretariat (FTU), the Turkish Patent Institute (TPE) and other agencies on April 29 that Turkey would remain on the Priority Watch List due to concerns about data exclusivity, patent linkage and copyright/trademark enforcement. FTU and TPE had no immediate reaction to ref A demarche. However, on May 2, Meral Barlas, of the MFA Americas Department, expressed disappointment with the decision and offered comments on our earlier message informing the GOT that the Pharmaceuticals Research and Manufacturers Association (PhRMA) was considering filing a Generalized System of Preferences (GSP) petition against Turkey (ref B).

2. (SBU) Barlas said that the Priority Watch List designation was disappointing in view of Turkey's recent efforts to strengthen its intellectual property regime, such as the January 2005 data exclusivity regulation. On Zyprexa, Barlas related that MFA had shared ref B demarche with other GOT agencies, and summarized their reaction. She noted that Eli Lilly and Abdi Ibrahim (AI) disputed which of two forms of olanzapine - only one of which is patented in Turkey - is the basis for the AI's marketing application. Barlas stated that litigation in this case continued, with Lilly's current appeal of an earlier court decision in AI's favor. On ref B's reference to a possible PhRMA petition to limit or remove Turkish eligibility for GSP, Barlas contended that it was "unfair" to link IP problems with GSP, and that bilateral economic relations "cannot benefit" from this.

3. (U) Econoff responded that, while Washington recognized that Turkey had taken steps to improve the IP regime in some areas, we continued to have serious concerns about data exclusivity (in that the new regulation is so limited as to be largely symbolic) and about anti-piracy and anti-counterfeiting efforts. On Zyprexa, Econoff underlined the importance of holding off on marketing approval for AI's product while the courts decide on the case. He stated that, by U.S. statute, GSP benefits are conditioned on observing IP criteria, and that failure to meet these criteria has limited Turkish eligibility for waivers and additions to GSP in the past. Moreover, Econoff pointed out that the USG and U.S. industry have been raising many of the same IP issues for years, that the GOT has not responded to numerous requests to discuss these issues bilaterally in a Trade and Investment Framework Agreement (TIFA) meeting, and that U.S. industry's patience was wearing thin.
Edelman